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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,152	12/01/2000	Michael H. Gilbert	F-120	4441
919 7590 10/15/2009 PITNEY BOWES INC. 35 WATERVIEW DRIVE MSC 26-22 SHELTON, CT 06484-3000				
EXAMINER KARMIS, STEFANOS				
ART UNIT 3693		PAPER NUMBER		
NOTIFICATION DATE 10/15/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

iptl@pb.com

Office Action Summary

Application No.

09/728,152

Applicant(s)

GILBERT, MICHAEL H.

Examiner

STEFANOS KARMIS

Art Unit

3693

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- 7) ☐ Paper No(s)/Mail Date: _____

DETAILED ACTION

1. This communication is in response to the amendment filed 28 July 2009.

Status of Claims

2. There are no new amendments to the claims. Claims 1-18 are pending.

Response to Arguments

3. Applicant's arguments filed 28 July 2009 have been fully considered but they are not persuasive.

Applicant's arguments are the same as the arguments presented to the Board of Patent Appeals and Interferences. In the decision, mailed 24 March 2009, The Board of Patent Appeals and Interferences entered a new grounds of rejection on the art. Therefore claims 1-5 and 8-16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Savage. Applicant has not amended the claims to overcome this rejection and therefore Applicant's arguments are not persuasive (see Board decision, 24 March 2009). Applicant's arguments do not appear to be in response to the Board decision as Applicant is arguing against a rejection under 35 U.S.C. § 102(e). Therefore, Applicant's arguments fail to overcome the grounds of rejection set forth by The Board of Patent Appeals and Interferences. Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Savage in view of Carlin. Applicant has not amended the claims to overcome this rejection and Applicant's arguments are not persuasive (see Board decision, 24 March 2009).

For these reasons, claims 1-18 stand rejected and Applicant's arguments are not persuasive.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-5 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage, U.S. Publication No. 2002/0026394 A1.

Regarding the rejection of claims 1-5 and 8-16, the Examiner notes the decision of The Board of Patent Appeals and Interferences which issued a decision on the claims on 24 March 2009. In the decision, the Board found claims 1-5 and 8-16 to be unpatentable under 35 U.S.C. § 103(a) over Savage. Since there are no new amendments to the claims, the rejection stands as stated by the Board.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage, U.S. Publication No. 2002/0026394 A1 in view of Carlin U.S. Patent No. 6,697,843 B1.

Regarding the rejection of claims 6 and 7, the Examiner notes the decision of The Board of Patent Appeals and Interferences which issued a decision on the claims on 24 March 2009. In the decision, the Board found claims 6 and 7 to be unpatentable under 35 U.S.C. § 103(a) over Savage in view of Carlin. Since there are no new amendments to the claims, the rejection stands as stated by the Board.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEFANOS KARMIS whose telephone number is (571)272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted
/Stefanos Karmis/
Primary Examiner, Art Unit 3693
13 October 2009